



January 19, 2007

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## SENATE BILL No. 101

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DIGEST OF SB 101 (Updated January 16, 2007 3:55 pm - DI 52)

**Citations Affected:** IC 13-30; IC 34-11; noncode.

**Synopsis:** Environmental legal actions. Eliminates the requirement that a person that brings an environmental legal action (ELA) be a private person. Clarifies that a person may bring an ELA regardless of whether the person caused or contributed to the hazardous substance release or petroleum release that is the basis for the ELA. Establishes a statute of limitations for an ELA.

**Effective:** Upon passage.

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**Gard**

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January 8, 2007, read first time and referred to Committee on Energy and Environmental Affairs.  
January 18, 2007, reported favorably — Do Pass.

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SB 101—LS 6318/DI 52+



January 19, 2007

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

## SENATE BILL No. 101

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A BILL FOR AN ACT to amend the Indiana Code concerning the environment.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 13-30-9-1 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. This chapter  
3 applies to actions brought by the state or a ~~private~~ person. However,  
4 this chapter does not apply to an action brought by the state if the  
5 action arises from a site that:  
6 (1) is listed on the National Priorities List for hazardous substance  
7 response sites (40 CFR 300 et seq.);  
8 (2) scores at least twenty-five (25) under the Indiana scoring  
9 model under 329 IAC 7; or  
10 (3) is deemed by the commissioner to pose an imminent threat to  
11 human health or the environment.  
12 SECTION 2. IC 13-30-9-2 IS AMENDED TO READ AS  
13 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. A person may,  
14 ~~bring an environmental legal action against a~~ **regardless of whether**  
15 **the person who** caused or contributed to the release of a hazardous  
16 substance or petroleum into the surface or subsurface soil or  
17 groundwater that poses a risk to human health and the environment,

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bring an environmental legal action against a person that caused or contributed to the release to recover reasonable costs of a removal or remedial action involving the hazardous substances or petroleum.

SECTION 3. IC 13-30-9-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 2.5. IC 34-11-2-11.5 applies to an environmental legal action brought under section 2 of this chapter.**

SECTION 4. IC 34-11-2-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 7. Except as provided in section 11.5 of this chapter,** the following actions must be commenced within six (6) years after the cause of action accrues:

- (1) Actions on accounts and contracts not in writing.
- (2) Actions for use, rents, and profits of real property.
- (3) Actions for injuries to property other than personal property, damages for detention of personal property and for recovering possession of personal property.
- (4) Actions for relief against frauds.

SECTION 5. IC 34-11-2-11.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 11.5. (a) Subject to subsection (c), a person that discovered before February 28, 1998, the presence of a hazardous substance or petroleum in soil or groundwater that is the basis for an action under IC 13-30-9-2 must bring the action before February 28, 2008.**

**(b) If subsection (a) does not apply, subject to subsection (c), a person must bring an action under IC 13-30-9-2 within ten (10) years after the date the person discovers the presence of a hazardous substance or petroleum in soil or groundwater that is the basis for the action.**

**(c) This section does not permit a person to revive an action brought under IC 13-30-9-2 that was finally adjudicated against the person.**

SECTION 6. [EFFECTIVE UPON PASSAGE] **(a) IC 34-11-2-11.5, as added by this act:**

- (1) applies prospectively from the effective date of this act; and**
- (2) subject to IC 34-11-2-11.5(c), as added by this act, and notwithstanding IC 34-11-2-7, as in effect before the effective date of this act, allows a person to maintain an environmental legal action brought before the effective date of this act.**

**(b) IC 13-30-9-2, as amended by this act, applies:**

- (1) prospectively from the effective date of this act; and**

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1           (2) to an action that may be maintained under subsection  
2           (a)(2).  
3       SECTION 7. An emergency is declared for this act.

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## COMMITTEE REPORT

Madam President: The Senate Committee on Energy and Environmental Affairs, to which was referred Senate Bill No. 101, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 101 as introduced.)

GARD, Chairperson

Committee Vote: Yeas 11, Nays 0.

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